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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91209747
Party	Defendant Bluewater Key RV Ownership Park Property Owners Association, Inc.
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In the Matter of Application Serial No. 85644802
Published in the Official Gazette on November 13, 2012
Mark: Bluewater Key in International Class: 43

**OPPOSITION TO OPPOSER/RESPONDENT’S MOTION FOR EXTENSION OF TIME
TO RESPOND TO SUMMARY JUDGMENT MOTION**

I. INTRODUCTION

On June 4, 2014, Opposer/Respondent, Rita Clark d/b/a Bluewater Rentals (“Opposer/Respondent”), through her counsel, filed a motion for extension of time (Doc. # 22) to respond to a summary judgment motion of Applicant/Petitioner, Bluewater Key RV Ownership Park Property Owners Association, Inc. (“Applicant/Petitioner”). Applicant/Petitioner, through its undersigned counsel, files this response, opposing the motion for extension of time.

A. Factual Background and Procedural History

In an email of December 9, 2013, Applicant/Petitioner consented to a ninety days extension of deadlines to conduct discovery and settlement negotiations. *See* Minor Decl. ¶ 2, Ex. A at 2. In the email of December 10, 2013, Applicant/Petitioner’s attorneys explained to Opposer/Respondent’s attorneys that Applicant/Petitioner agreed to a ninety days extension rather than a suspension. *See* Minor Decl. ¶ 3, Ex. B at 1. On December 11, 2013, Opposer/Respondent’s attorneys filed a consented motion for an extension of ninety days. *See* Doc. # 12; Minor Decl. ¶4.¹ On December 11, 2013, the Trademark Trial and Appeal Board (“Board”) granted the ninety days extension. *See* Doc. # 13; Minor Decl. ¶ 5.

According to the consent motion of December 11, 2013, the deadline for discovery was March 20, 2014. *See* Doc. # 12; Minor Decl. ¶ 6. Plaintiff’s pretrial disclosures were due on May 4, 2014. *See* Docs. # 12, 15; Minor Decl. ¶ 6. The Plaintiff’s testimony period was scheduled to close on June 18, 2014. *See* Docs. # 12, 15; Minor Decl. ¶ 6. Defendant’s pretrial disclosures were due on July 3, 2014. *See* Docs. # 12, 15; Minor Decl. ¶ 6.

In a teleconference of March 4, 2014, Opposer/Respondent’s attorney, Michael DeBiase indicated that from April 17, 2014 to May 9, 2014 Michael DeBiase would be attending two weddings, including Michael DeBiase’s honeymoon. *See* Minor Decl. ¶ 7. In an email March 4,

¹ The term, “Doc.” refers to the Trademark Trial and Appeal Board’s docket entries.

2014, Michael DeBiase indicated that Michael DeBiase would be out from April 17, 2014 to May 9, 2014 for the weddings, including Michael DeBiase's honeymoon. *See* Minor Decl. ¶ 7, Ex. C at 2. In an email of March 4, 2014, Applicant/Petitioner's attorneys pointed out that Michael DeBiase's wedding plans would have no effect on the deadline for close of discovery on March 20, 2014. *See* Minor Decl. ¶ 8, Ex. C at 1. In the email of March 4, 2014, Applicant/Petitioner's attorneys also pointed out that Opposer/Respondent's attorney, Kevin Markow was working on the opposition proceeding as well. *See* Minor Decl. ¶ 8, Ex. C at 1. In a follow up email of March 4, 2014 from Michael DeBiase, Michael DeBiase indicated that Kevin Markow would be out of pocket for the rest of March due to a vacation and trial. *See* Minor Decl. ¶ 9, Ex. C at 1. In the follow up email of March 4, 2014, Michael DeBiase also indicated that Kevin Markow would be out of pocket April 14, 2014 through April 22, 2014 for a holiday. *See* Minor Decl. ¶ 9, Ex. C at 1.

On March 20, 2014, discovery closed. *See* Docs. # 12, 15; Minor Decl. ¶ 10. Opposer/Respondent's attorneys did not serve any discovery requests on Applicant/Petitioner during the ninety days extension period for discovery. *See* Minor Decl. ¶ 11. In fact, Opposer/Respondent's attorneys never served any discovery requests on Applicant/Petitioner in this proceeding. *See* Minor Decl. ¶ 11.

Applicant/Petitioner's attorneys filed a motion for summary judgment on April 29, 2014. *See* Doc. #16; Minor Decl. ¶ 12. Generally, the Board proceedings are not automatically suspended when a summary judgment motion is filed. *See* Minor Decl. ¶ 13. Only an order by the Board suspends the proceedings. Therefore, on April 30, 2014, Applicant/Petitioner's attorneys filed a motion to suspend the proceeding, pending disposition of Applicant/Petitioner's summary judgment motion. *See* Doc. #17; Minor Decl. ¶ 13. On May 8, 2014, the Board

suspended the proceeding pending disposition of the summary judgment motion. *See* Doc. #21; Minor Decl. ¶ 14.

On April 29, 2014, a Declaration of James Mazurek had been filed in support of Applicant/Petitioner's motion for summary judgment. *See* Doc. #16; Minor Decl. ¶ 15. On May 7, 2014, Applicant/Petitioner's attorneys discovered that underlining exhibits to the Declaration of James Mazurek were not posted on the Board's website. *See* Doc. #16; Minor Decl. ¶ 16. On May 7, 2014, Applicant/Petitioner's firm contacted the Board's attorney regarding exhibits missing from the Declaration of James Mazurek and the Board's attorney indicated that missing exhibits should be filed under other motions. *See* Minor Decl. ¶ 16. On May 7, 2014, Applicant/Petitioner's firm filed missing exhibits for the Declaration of James Mazurek. *See* Doc. #20; Minor Decl. ¶ 16. On May 7, 2014, Applicant/Petitioner's attorneys served the missing exhibits on Opposer/Respondent's counsel. *See* Doc. #20; Minor Decl. ¶ 16.

Applicant/Petitioner's firm considered the wedding plans of Opposer/Respondent's attorney, Michael DeBiase from April 17, 2014 to May 9, 2014 in deciding whether to grant a thirty days extension to respond to the summary judgment motion; however, Opposer/Respondent's attorney, Kevin Markow was available after April 22, 2014 and Applicant/Petitioner's attorneys filed the summary judgment motion on April 29, 2014. *See* Doc. #16; Minor Decl. ¶ 17, Ex. C at 1-2. The present situation does not involve a sole practitioner. Minor Decl. ¶ 18. On May 13, 2014, Michael DeBiase sent an email indicating that May 13, 2014 was Michael DeBiase's first day back from a honeymoon. *See* Minor Decl. ¶ 19, Ex. D at 3. On May 13, 2014, Michael DeBiase indicated that Michael DeBiase had not looked at Applicant/Petitioner's summary judgment motion that was filed in Michael DeBiase's absence. *See* Minor Decl. ¶ 19, Ex. D at 3. On May 13, 2014, Michael DeBiase indicated that Kevin

Markow was preparing for a trial and mediation for the last week and a half. *See* Minor Decl. ¶ 19, Ex. D at 3. Kevin Markow could have begun preparing a response to Applicant/Petitioner's summary judgment motion of April 29, 2014 since Kevin Markow's holiday ended on April 22, 2014. *See* Minor Decl. ¶ 20, Ex. D at 3.

On May 19, 2014, Applicant/Petitioner's attorneys consented to an extension of eight days based on the delay between the filing of the missing exhibits on May 7, 2014 and the filing of the summary judgment motion on April 29, 2014. *See* Docs. #16, 20; Minor Decl. ¶ 21, Ex. D at 2. Thus, by mutual agreement, Opposer/Respondent had until June 6, 2014 to respond to Applicant/Petitioner's summary judgment motion. *See* Docs. #16, 20; Minor Decl. ¶ 21, Ex. D at 2.

In a teleconference of June 2, 2014, Opposer/Respondent rejected Applicant/Petitioner's last settlement proposal for settlement. *See* Minor Decl. ¶ 22. In the teleconference of June 2, 2014, attorneys for Opposer/Respondent made a counterproposal for which attorneys for Opposer/Respondent indicated they lacked settlement authority. *See* Minor Decl. ¶ 22. Shortly after the teleconference of June 2, 2014, Michael DeBiase, counsel for Opposer/Respondent sent an email, requesting an extension of a week to respond to Applicant/Petitioner's motion for summary judgment. *See* Minor Decl. ¶ 23, Ex. D at 1, 2. In Michael DeBiase's email of June 2, 2014, Michael DeBiase indicated that Michael DeBiase and Kevin Markow wanted an extension of a week because Michael DeBiase and Kevin Markow were attending a mandatory Firm retreat on Friday, June 6, 2014. *See* Minor Decl. ¶ 23, Ex. D at 1, 2. The response to Applicant/Petitioner's summary judgment motion was due on June 6, 2014 by agreement of Applicant/Petitioner and Opposer/Respondent. *See* Docs. #16, 20; Minor Decl. ¶ 23, Ex. D at 2. Minutes after the email of June 2, 2014 from Michael DeBiase, requesting an extension of one

week to respond to Applicant/Petitioner's summary judgment motion, Kevin Markow sent an email and requested a twenty days extension to respond to Applicant/Petitioner's summary judgment motion. *See* Minor Decl. ¶ 24, Ex. D at 1, 2.

From April 29, 2014 to June, 6, 2014, Opposer/Respondent's attorney, Kevin Markow failed to file a response to Applicant/Petitioner's summary judgment motion. *See* Minor Decl. ¶ 25. The period of April 29, 2014 to June 6, 2014 was after the holiday activities from April 14, 2014 to April 22, 2014. *See* Minor Decl. ¶ 25, Ex. C at 1. Although Michael DeBiase indicated in the email of March 4, 2014 that Michael DeBiase would be out of pocket from April 17 to May 9, 2014, Michael DeBiase indicated in an email of May 13, 2014 that Michael DeBiase did not return to work until May 13, 2014. *See* Minor Decl. ¶ 26, Ex. C at 2; Ex. D at 3. From May 13, 2014 to June 6, 2014, Michael DeBiase failed to file a response to Applicant/Petitioner's summary judgment motion. *See* Minor Decl. ¶ 26.

On June 3, 2014, Opposer/Respondent's attorneys sent an email, inquiring about Opposer/Respondent's request for extension of time to respond to the summary judgment motion and Opposer/Respondent's counterproposal. *See* Minor Decl. ¶ 28, Ex. D at 1. On June 4, 2014, Applicant/Petitioner rejected the counterproposal from Michael DeBiase and Kevin Markow, attorneys for Opposer/Respondent. *See* Minor Decl. ¶ 29. In a teleconference of June 4, 2014, attorneys for Applicant/Petitioner notified attorneys for Opposer/Respondent that Applicant/Petitioner did not consent to the extension of time to respond to the motion for summary judgment. *See* Minor Decl. ¶ 30. On June 4, 2014, Michael DeBiase filed Opposer/Respondent's motion for extension of time to respond to Applicant/Petitioner's summary judgment motion. *See* Minor Decl. ¶ 31, Ex. D. at 1. Opposer/Respondent's motion for extension of time requested a thirty days extension of time to respond to Applicant/Petitioner's

summary judgment motion. *See* Doc. # 22; Minor Decl. ¶ 31. On June 9, 2014, Applicant/Petitioner’s attorneys received an electronic notice of Opposer/Respondent’s motion for extension of time to file a response to Applicant/Petitioner’s summary judgment motion. Minor Decl. ¶ 32.

B. Standard of Review

The standard for allowing an extension of a prescribed period prior to the expiration of the time period is good cause. *See* Fed. R. Civ. P. 6(b); TBMP § 509. “Generally, the Board is liberal in granting extensions of time before the period to act has elapsed so long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions is not abused.” *Nat. Football League v. DNH Management LLC*, 85 U.S.P.Q.2d 1852, 1854 (TTAB 2008) (citing *Sunkist Growers, Inc. v. Benjamin Ansehl Co.*, 229 U.S.P.Q. 147 (TTAB 1985); *Am. Vitamin Products Inc. v. DowBrands Inc.*, 22 U.S.P.Q.2d 1313, 1315 (TTAB 1992). “The moving party, however, retains the burden of persuading the Board that it was diligent in meeting the responsibilities and should therefore be awarded additional time.” *Nat. Football League*, 85 U.S.P.Q.2d at 1854.

II. ARGUMENT

A. Applicant/Petitioner Previously Consented to a Ninety Days Extension to Conduct Discovery and to Negotiate a Settlement and the Parties Are Not Currently Corresponding Regarding Settlement Negotiations

On December 9, 2013, Applicant/Petitioner previously consented to a ninety days extension of the discovery period for the parties conduct discovery and conduct settlement negotiations. *See* Minor Decl. ¶ 2, Ex. A at 2. Applicant/Petitioner did not agree to suspend the proceeding for ninety days. *See* Minor Decl. ¶ 3, Ex. A at 1, Ex. B at 1. On December 11, 2013, the motion for a ninety days extension of time was filed with the Board. *See* Doc. # 12; *See*

Minor Decl. ¶ 4. On December 11, 2013, the Board granted the ninety days extension of time. *See* Doc. # 13; *See* Minor Decl. ¶ 5. The discovery period closed on March 20, 2014 and Applicant/Petitioner filed a motion for summary judgment on April 29, 2014. *See* Docs. # 12, 13, 15; Minor Decl. ¶¶ 6, 10, 12.

Applicant/Petitioner's motion for summary judgment will not be rendered moot because the parties are not currently corresponding regarding settlement negotiations. *See* Minor Decl. ¶ 29. Applicant/Petitioner prepared a proposed settlement agreement, which the parties negotiated for months. *See* Minor Decl. ¶ 22. However, Opposer/Respondent rejected all the terms of Applicant/Petitioner's proposed settlement agreement in a teleconference of June 2, 2014 and an email of June 2, 2014. *See* Minor Decl. ¶ 22, Ex. D at 1.² In the teleconference of June 2, 2014, attorneys for Opposer/Respondent made a completely different counterproposal for which attorneys for Opposer/Respondent indicated a lack of settlement authority. *See* Minor Decl. ¶ 22. In the teleconference of June 2, 2014, attorneys for Opposer/Respondent indicated that attorneys for Opposer/Respondent had been unable to communicate with Rita Clark of Bluewater Rentals and did not have settlement authority to make the counterproposal. *See* Minor Decl. ¶ 22. Shortly after the teleconference, Michael DeBiase, counsel for Opposer/Respondent requested an extension of a week to respond to Applicant/Petitioner's motion for summary judgment. *See* Minor Decl. ¶ 23, Ex. D at 1, 2. Within minutes, Kevin Markow, requested an extension of twenty days to respond to Applicant/Petitioner's motion for summary judgment. *See* Minor Decl. ¶ 24, Ex. D at 2. On June 4, 2014, Applicant/Petitioner rejected the counterproposal from attorneys for Opposer/Respondent. *See* Minor Decl. ¶ 29. In a teleconference of June 4, 2014, attorneys for Applicant/Petitioner notified attorneys for Opposer/Respondent that

² Applicant/Petitioner has redacted portions of the email in Exhibit D that contain the substance of the counterproposal made by Opposer/Respondent's attorneys.

Applicant/Petitioner did not consent to the extension of time to respond to the motion for summary judgment. *See* Minor Decl. ¶ 30. On June 4, 2014, Opposer/Respondent's attorney's Michael DeBiase and Kevin Markow filed a motion for an extension of time to respond the Applicant/Petitioner's summary judgment motion. *See* Minor Decl. ¶ 31, Ex. D at 1.

B. Applicant/Petitioner Consented to an Eight Days Extension Based on Service of the Later Filed Exhibits for Applicant/Petitioner's Motion for Summary Judgment and Opposer/Respondent Has Not Shown Good Cause for Further Extension

A motion for extension of time must state with particularity the grounds upon which the motion for extension of time is based. *See Fairline Boats plc v. New Howmar Boats Corp.*, 59 U.S.P.Q.2d 1479, 1479 (TTAB 2001) (citing *HKG Industries, Inc. v. Perma-Pipe, Inc.*, 49 U.S.P.Q.2d 1156, 1158 (TTAB 1998); *Luemme Inc. v. D.B. Plus Inc.*, 53 U.S.P.Q.2d 1758, 1760 (TTAB 2000)). A motion for extension of time or an opposition should thoroughly present arguments and authority in a brief. *See Fairline Boats plc*, 59 U.S.P.Q.2d at 1479 (citing *Johnston Pump/General Valve Inc. v. Chromalloy Am. Corp.*, 13 U.S.P.Q.2d 1719, 1720 n. 3).

The Board may scrutinize a motion for extension of time to determine whether the moving party has acted diligently. *See Luemme Inc. v. D.B. Plus Inc.*, 53 U.S.P.Q.2d 1758, 1760 (TTAB 2000). The Board may deny a motion for extension of time based on vague assertions of extensive travel. *See id.* For example, in *Luemme Inc. v. D.B. Plus Inc.*, Luemme filed a cancellation proceeding against D.B. Plus, Inc. to cancel D.B. Plus, Inc.'s trademark. *See id.* at 1759. In a second motion for extension of the discovery period, Luemme provided a vague assertion that extensive travel made it difficult for Luemme to participate with counsel in the discovery process. *See id.* at 1761. D.B. Plus, Inc. opposed Luemme's motion for extension of time. *See id.* The Board stated that Luemme failed to provide any detailed information regarding the nature and dates of Luemme's travel. *See id.* In addition, the Board indicated that Luemme

failed to provide any detailed information regarding efforts Luemme's counsel made to contact Luemme during the discovery period. *See id.* According to the Board, it is difficult to imagine that Luemme was unavailable during the entire discovery period. *See id.* The Board stated that the Board should not have to remind Luemme, the party who initiated the trademark proceeding that Luemme carries the burden of going forward in a timely manner. *See id.* The Board stated that D.B. Plus, Inc. did not have to sit idle for the convenience of Luemme's travel schedule. *See id.* The Board denied Luemme's motion for extension of the discovery period. *See id.*

By mutual agreement, Opposer/Respondent had until June 6, 2014 to respond to Applicant/Petitioner's summary judgment motion. *See Docs. # 16, 20; Minor Decl. ¶ 21, Ex. D at 2.* On April 29, 2014, a Declaration of James Mazurek had been filed in support of Applicant/Petitioner's motion for summary judgment. *See Doc. #16; Minor Decl. ¶ 15.* On May 7, 2014, Applicant/Petitioner's firm discovered that underlining exhibits to the Declaration of James Mazurek were not posted on the Board's website. *See Doc. #16; Minor Decl. ¶ 16.* On May 7, 2014, Applicant/Petitioner's firm called the Board's attorney regarding exhibits missing from the Declaration of James Mazurek and the Board's attorney indicated that missing exhibits should be filed under other motions. *See Minor Decl. ¶ 16.* On May 7, 2014, Applicant/Petitioner's firm filed missing exhibits for the Declaration of James Mazurek. *See Doc. #20; Minor Decl. ¶ 16.* On May 7, 2014, Applicant/Petitioner's firm served the missing exhibits on Opposer/Respondent's counsel. *See Doc. #20; Minor Decl. ¶ 16.* On May 19, 2014, Applicant/Petitioner's attorneys agreed to an extension of eight days based on the delay between the filing of the missing exhibits on May 7, 2014 and the filing of Applicant/Petitioner's summary judgment motion on April 29, 2014. *See Docs. # 16, 20; Minor Decl. ¶ 21, Ex. D at 2.*

Opposer/Respondent has failed to carry Opposer/Respondent's burden in establishing good cause for the extension of time. Opposer/Respondent has not shown any diligence in preparing and filing a response to Applicant/Petitioner's summary judgment motion.³ The mandatory retreat was on Friday, June 6, 2014. *See* Minor Decl. ¶ 23, Ex. D at 1, 2. The extended deadline for filing the response to Applicant/Petitioner's summary judgment motion was June 6, 2014 by agreement of the parties on May 19, 2014. *See* Docs. # 16, 20; Minor Decl. ¶¶ 21, 23, Ex. D at 2. Thus, the mandatory retreat on Friday, June 6, 2014 did not prevent Kevin Markow from preparing and filing a response to Applicant/Petitioner's response from April 29, 2014 to June 6, 2014. *See* Docs. # 16, 20; Minor Decl. ¶ 27, Ex. C at 1; Ex. D at 1, 2. Nor did the mandatory retreat on Friday, June 6, 2014 prevent Michael DeBiase from preparing and filing a response to Applicant/Petitioner's summary judgment motion from May 13, 2014 to June 6, 2014. *See* Docs. # 16, 20; Minor Decl. ¶ 27, Ex. C at 1; Ex. D at 1-3. Opposer/Respondent's attorneys do not explain how an event on the last day of an extended deadline affected the ability of Opposer/Respondent's attorneys to file a response to Applicant/Petitioner's summary judgment motion. *See* Minor Decl. ¶ 27, Ex. D at 1, 2. Opposer/Respondent's attorneys likely knew about the mandatory firm retreat of June 6, 2014, prior to the time Opposer/Respondent notified Applicant/Petitioner's attorneys on June 2, 2014 of the mandatory firm retreat of June 6, 2014. *See* Ex. D at 1, 2. An event on the last day of an extended deadline does not supply good cause for a thirty days extension to Applicant/Petitioner's summary judgment motion. *See* Ex. D at 1, 2.

The sparse motion for extension of time contains very little information from which the Board may find good cause. In the motion for extension of time, Opposer/Respondent's

³ Opposer/Respondent has not served any discovery requests on Applicant/Petitioner or filed a response to Applicant/Petitioner's summary judgment motion. Currently, Opposer/Respondent has done absolutely nothing to further the merits of this opposition proceeding, which Opposer/Respondent filed against Applicant/Petitioner.

attorneys argue “[d]ue to intervening deadlines, professional commitments, and prepaid travel plans,” Opposer/Respondent “requires an additional thirty days to respond to the pending summary judgment motion.” Doc. # 22. Kevin Markow has not set out in the motion for extension of time or in a declaration any specific detailed facts regarding any paid travel events during the period from April 29, 2014 to June 5, 2014. *See* Doc. # 22. Likewise, Michael DeBiase has not set out in the motion for extension of time or in a declaration any specific detailed facts regarding any paid travel events during the period from May 13, 2014 to June 5, 2014. *See* Doc. # 22. Therefore, the Board should deny Opposer/Respondent’s motion for extension of time.

III. CONCLUSION

For the foregoing reasons, Applicant/Petitioner requests that the Board deny Opposer/Respondent’s motion for extension of time to respond to Applicant/Petitioner’s summary judgment motion.

Date: June 17, 2014

/Arlen L. Olsen/
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **OPPOSITION TO OPPOSER/RESPONDENT'S MOTION FOR EXTENSION** was served by USPO Express Mail, postage prepaid, on counsel for Opposer/Respondent's counsel, Kevin Markow and Michael De Biase of Becker & Poliakoff, P.A., at the address of 1 East Broward Blvd., Suite 1800, Ft. Lauderdale Florida 33301 on this 17th day of June 2014.

/Arlen L. Olsen/

Arlen L. Olsen, Esq.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85644802
Published in the Official Gazette on November 13, 2012
Mark: Bluewater Key in International Class: 43

CLARK, RITA M. d/b/a)	
BLUEWATER RENTALS)	
)	
Opposer,)	Opposition/ Cancellation No. 91209747
v.)	
)	
BLUEWATER KEY RV OWNERSHIP)	
PARK PROPERTY OWNERS)	
ASSOCIATION, INC.,)	
)	
Applicant)	
)	
BLUEWATER KEY RV OWNERSHIP)	
PARK PROPERTY OWNERS)	
ASSOCIATION, INC.,)	
)	
Petitioner,)	
v.)	
)	
CLARK, RITA M. d/b/a)	
BLUEWATER RENTALS)	
)	
Respondent.)	
)	

**DECLARATION OF AUTONDRIA S. MINOR
IN OPPOSITION TO MOTION FOR EXTENSION OF TIME**

1. My name is Autondria S. Minor. My firm, Schmeiser, Olsen & Watts represents Applicant/Petitioner, Bluewater Key RV Ownership Park Property Owners Association, Inc. (“Applicant/Petitioner”) in this proceeding. I make this declaration in opposition to the motion

for extension of time (Doc. # 22)¹, filed by Opposer/Respondent, Rita Clark d/b/a Bluewater Rentals on June 4, 2014.

2. In an email of December 9, 2013, Applicant/Petitioner consented to a ninety days extension of deadlines to conduct discovery and settlement negotiations. *See* Ex. A at 2.

3. In an email of December 10, 2013, Applicant/Petitioner's attorneys explained to Opposer/Respondent's attorneys that Applicant/Petitioner agreed to a ninety days extension rather than a suspension. *See* Ex. B at 1.

4. On December 11, 2013, Opposer/Respondent's attorneys filed a consented motion for an extension of ninety days. *See* Doc. # 12.

5. On December 11, 2013, the Trademark Trial and Appeal Board ("Board") granted the ninety days extension. *See* Doc. # 13.

6. According to the consented motion of December 11, 2013, the deadline for discovery was March 20, 2014. *See* Doc. # 12. Plaintiff's pretrial disclosures were due on May 4, 2014. *See* Docs. # 12, 15. The Plaintiff's testimony period was scheduled to close on June 18, 2014. *See* Docs. # 12, 15. Defendant's pretrial disclosures were due on July 3, 2014. *See* Docs. # 12, 15.

7. In a teleconference of March 4, 2014, Opposer/Respondent's attorney, Michael DeBiase indicated that from April 17, 2014 to May 9, 2014 Michael DeBiase would be attending two weddings, including Michael DeBiase's honeymoon. In an email of March 4, 2014, Michael DeBiase also indicated that Michael DeBiase would be out from April 17, 2014 to May 9, 2014 for weddings, including Michael DeBiase's honeymoon. *See* Ex. C at 2.

8. In an email of March 4, 2014, Applicant/Petitioner's attorneys pointed out that the wedding plans of Opposer/Respondent's attorney, Michael DeBiase would have no effect on the

¹ The term, "Doc." refers to the Trademark Trial and Appeal Board's docket entries.

deadline for close of discovery on March 20, 2014. *See* Ex. C at 1. In the email of March 4, 2014, Applicant/Petitioner's attorneys further pointed out that Opposer/Respondent's attorney, Kevin Markow was working on the opposition proceeding as well. *See* Ex. C at 1.

9. In a follow up email of March 4, 2014 from Opposer/Respondent's attorney, Michael DeBiase, Michael DeBiase indicated that Opposer/Respondent's attorney, Kevin Markow would be out of pocket for the rest of March due to a vacation and trial. *See* Ex. C at 1. In the follow up email of March 4, 2014, Michael DeBiase also indicated that Kevin Markow would be out of pocket April 14, 2014 through April 22, 2014 for a holiday. *See* Ex. C at 1.

10. On March 20, 2014, discovery closed. *See* Docs. # 12, 15.

11. Opposer/Respondent's attorneys did not serve any discovery requests on Applicant/Petitioner during the ninety days extension period for discovery. In fact, Opposer/Respondent's attorneys never served any discovery requests on Applicant/Petitioner in this proceeding.

12. Applicant/Petitioner's attorneys filed a motion for summary judgment on April 29, 2014. *See* Doc. #16.

13. Generally, Board proceedings are not automatically suspended when a summary judgment motion is filed. Only an order by the Board suspends the proceedings. Therefore, on April 30, 2014, Applicant/Petitioner's attorneys filed a motion to suspend the proceeding, pending disposition of Applicant/Petitioner's summary judgment motion. *See* Doc. #17.

14. On May 8, 2014, the Board suspended the proceeding, pending disposition of Applicant/Petitioner's summary judgment motion. *See* Doc. #21.

15. On April 29, 2014, a Declaration of James Mazurek had been filed in support of Applicant/Petitioner's motion for summary judgment. *See* Doc. #16.

16. On May 7, 2014, Applicant/Petitioner's attorneys discovered that underlining exhibits to the Declaration of James Mazurek were not posted on the Board's website. *See* Doc. #16. On May 7, 2014, Applicant/Petitioner's firm contacted the Board's attorney regarding exhibits missing from the Declaration of James Mazurek and the Board's attorney indicated that missing exhibits should be filed under other motions. On May 7, 2014, Applicant/Petitioner's firm filed missing exhibits for the Declaration of James Mazurek. *See* Doc. #20. On May 7, 2014, Applicant/Petitioner's attorneys served the missing exhibits on Opposer/Respondent's counsel. *See* Doc. #20.

17. Applicant/Petitioner's firm considered the wedding plans of Michael DeBiase from April 17, 2014 to May 9, 2014 in deciding whether to grant a thirty days extension to respond to Applicant/Petitioner's summary judgment motion; however, Kevin Markow was available after April 22, 2014 and Applicant/Petitioner's attorneys filed the summary judgment motion on April 29, 2014. *See* Doc. #16; Ex. C at 1-2.

18. The present situation does not involve a sole practitioner.

19. On May 13, 2014, Opposer/Respondent's attorney, Michael DeBiase sent an email indicating that May 13, 2014 was Michael DeBiase's first day back from a honeymoon. *See* Ex. D at 3.² On May 13, 2014, Michael DeBiase indicated that Michael DeBiase had not looked at Applicant/Petitioner's summary judgment motion that was filed in Michael DeBiase's absence. *See* Ex. D at 3. On May 13, 2014, Michael DeBiase indicated that Kevin Markow was preparing for a trial and mediation for the last week and a half. *See* Ex. D at 3.

20. Opposer/Respondent's attorney, Kevin Markow could have begun preparing a response to Applicant/Petitioner's summary judgment motion of April 29, 2014 since Kevin Markow's holiday ended on April 22, 2014. *See* Ex. D at 3.

² Applicant/Petitioner's attorney has redacted Ex. D to remove the substance of any confidential settlement terms.

21. On May 19, 2014, Applicant/Petitioner's attorneys consented to an extension of eight days based on the delay between the filing of the missing exhibits on May 7, 2014 and the filing of Applicant/Petitioner's summary judgment motion on April 29, 2014. *See* Docs. #16, 20; Ex. D at 2. Thus, by mutual agreement, Opposer/Respondent had until June 6, 2014 to respond to the summary judgment motion. *See* Docs. #16, 20; Ex. D at 2.

22. Applicant/Petitioner's attorneys prepared a proposed settlement agreement, which the parties negotiated for months. However, Opposer/Respondent rejected all the terms of Applicant/Petitioner's proposed settlement agreement in a teleconference of June 2, 2014 and an email of June 2, 2014. Ex. D at 1.³ In the teleconference of June 2, 2014, Opposer/Respondent's attorneys made a completely different counterproposal for which Opposer/Respondent's attorneys indicated a lack of settlement authority. In the teleconference of June 2, 2014, Opposer/Respondent's attorneys indicated that Opposer/Respondent's attorneys had been unable to communicate with Rita Clark of Bluewater Rentals and did not have settlement authority to make the counterproposal.

23. Shortly after the teleconference of June 2, 2014, Opposer/Respondent's attorney, Michael DeBiase sent an email, requesting an extension of a week to respond to Applicant/Petitioner's motion for summary judgment. *See* Ex. D at 1, 2. In Michael DeBiase's email of June 2, 2014, Michael DeBiase indicated that Michael DeBiase and Kevin Markow wanted an extension of a week because Michael DeBiase and Kevin Markow were attending a mandatory Firm retreat on Friday, June 6, 2014. *See* Ex. D at 1, 2. Nevertheless, the response to Applicant/Petitioner's summary judgment motion was due on June 6, 2014 by agreement of Applicant/Petitioner and Opposer/Respondent. *See* Docs. #16, 20; Ex. D at 2.

³ Applicant/Petitioner has redacted portions of the email in Exhibit D that contain the substance of the counterproposal made by Opposer/Respondent's attorneys.

24. Minutes after the email of June 2, 2014 from Opposer/Respondent's attorney, Michael DeBiase, requesting an extension of one week to respond to Applicant/Petitioner's summary judgment motion, Opposer/Respondent's attorney, Kevin Markow sent an email and requested a twenty days extension to respond to Applicant/Petitioner's summary judgment motion. *See* Ex. D at 1, 2.

25. From April 29, 2014 to June, 6, 2014, Opposer/Respondent's attorney, Kevin Markow failed to file a response to Applicant/Petitioner's summary judgment motion. The period of April 29, 2014 to June 6, 2014 was after the holiday activities from April 14, 2014 to April 22, 2014. *See* Ex. C at 1.

26. Although Opposer/Respondent's attorney, Michael DeBiase indicated in the email of March 4, 2014 that Michael DeBiase would be out of pocket from April 17 to May 9, 2014, Michael DeBiase indicated in an email of May 13, 2014 that Michael DeBiase did not return to work until May 13, 2014. *See* Ex. C at 2; Ex. D at 3. From May 13, 2014 to June 6, 2014, Michael DeBiase failed to file a response to Applicant/Petitioner's summary judgment motion.

27. The mandatory retreat on Friday, June 6, 2014 did not prevent Opposer/Respondent's attorney, Kevin Markow from preparing and filing a response to Applicant/Petitioner's summary judgment motion from April 29, 2014 to June 6, 2014. *See* Docs. # 16, 20; Ex. C at 1; Ex. D at 1, 2. Nor did the mandatory retreat on Friday, June 6, 2014 prevent Michael DeBiase from preparing and filing a response to Applicant/Petitioner's summary judgment motion from May 13, 2014 to June 6, 2014. *See* Docs. # 16, 20; Ex. C at 1; Ex. D at 1-3. An event on the last day of an extended deadline does not prevent one from preparing or filing documents prior the last day of the extended deadline. *See* Ex. D at 1, 2. An event on the last day of an extended deadline does not explain why Opposer/Respondent's

attorneys failed to file a response to Applicant/Petitioner's summary judgment motion. *See* Ex. D at 1, 2.

28. On June 3, 2014, Opposer/Respondent's attorneys sent an email, inquiring about Opposer/Respondent's request for extension of time to respond to the summary judgment motion and Opposer/Respondent's counterproposal. *See* Ex. D at 1.

29. On June 4, 2014, Applicant/Petitioner rejected the counterproposal from Michael DeBiase and Kevin Markow, attorneys for Opposer/Respondent. Thus, the parties are not currently corresponding regarding settlement negotiations.

30. In a teleconference of June 4, 2014, Applicant/Petitioner's attorneys notified Opposer/Respondent's attorneys that Applicant/Petitioner did not consent to the extension of time to respond to Applicant/Petitioner's motion for summary judgment.

31. On June 4, 2014, Opposer/Respondent's attorney, Michael DeBiase filed Opposer/Respondent's motion for extension of time to respond to Applicant/Petitioner's summary judgment motion. *See* Ex. D. at 1. Opposer/Respondent's motion for extension of time requested a thirty days extension of time to respond to Applicant/Petitioner's summary judgment motion. *See* Doc. # 22.

32. On June 9, 2014, Applicant/Petitioner's attorneys received an electronic notice of Opposer/Respondent's motion for extension of time to file a response to Applicant/Petitioner's summary judgment motion.

33. The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any

resulting registration therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Date: June 17, 2014

/Autondria S. Minor/

Autondria S. Minor

EXHIBIT A

Autondria Minor

From: De Biase, Michael <MDeBiase@bplegal.com>
Sent: Tuesday, December 10, 2013 11:54 AM
To: Autondria Minor
Cc: Markow, Kevin; Arlen Olsen; Dianne Pomonis
Subject: RE: BLUE.50057
Attachments: Bluewater - Motion for Suspension with Consent.DOC

See attached, let me know if you have any comments. I spoke with the Interlocutory Attorney and after this is filed, I will call up to make sure that the paralegal attends to it today. She said that 90 days seems reasonable.

From: Autondria Minor [mailto:aminor@iplawusa.com]
Sent: Monday, December 09, 2013 10:30 AM
To: De Biase, Michael
Cc: Markow, Kevin; Arlen Olsen; Dianne Pomonis
Subject: RE: BLUE.50057

Dear Michael:

You may handle it.

Sincerely,

Autondria S. Minor
Autondria S. Minor
Schmeiser, Olsen & Watts
22 Century Hill Drive, Suite 302
Latham, NY 12110
Telephone: (518) 220-1850 (Ext. 317)
Facsimile: (518) 220-1857

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From: De Biase, Michael [mailto:MDeBiase@bplegal.com]
Sent: Monday, December 09, 2013 10:07 AM
To: Autondria Minor; Markow, Kevin
Cc: Arlen Olsen; Dianne Pomonis
Subject: RE: BLUE.50057

Would you like us to file the agreed request, or will your office handle it?

Michael N. De Biase

Attorney at Law

Emerald Lake Corporate Park | 3111 Stirling Road | Fort Lauderdale, FL 33312-6525

Tel: 954.985.4145 | Fax: 954.985.4176 | [E-Mail](#)

Park Place | 311 Park Place Boulevard, Suite 250 | Clearwater, FL 33759

Tel: 727.712.4000 | Fax: 727.796.1484

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From: Autondria Minor [<mailto:aminor@iplawusa.com>]

Sent: Monday, December 09, 2013 8:47 AM

To: Markow, Kevin; De Biase, Michael

Cc: Arlen Olsen; Dianne Pomonis

Subject: BLUE.50057

Dear Kevin and Michael:

Applicant consents to your request for a 90 days extension of the discovery period.

Sincerely,

Autondria S. Minor

Autondria S. Minor

Schmeiser, Olsen & Watts

22 Century Hill Drive, Suite 302

Latham, NY 12110

Telephone: (518) 220-1850 (Ext. 317)

Facsimile: (518) 220-1857

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85644802
Published in the Official Gazette on November 13, 2012
Mark: Bluewater Key
International Class: 43

CLARK, RITA M. d/b/a
BLUEWATER RENTALS

Opposer,

Opposition No. 91209747

v.

BLUEWATER KEY RV OWNERSHIP
PARK PROPERTY OWNERS
ASSOCIATION, INC.,

Applicant

BLUEWATER KEY RV OWNERSHIP
PARK PROPERTY OWNERS
ASSOCIATION, INC.,

Petitioner,

Cancellation No. _____

v.

CLARK, RITA M. d/b/a
BLUEWATER RENTALS

Respondent.

**MOTION FOR SUSPENSION FOR SETTLEMENT
AND TO CONDUCT FURTHER DISCOVERY WITH CONSENT**

The parties hereto are engaged in the settlement of this matter, and need additional time to conduct discovery. Therefore, Rita M. Clark d/b/a Bluewater Rentals with the consent of Bluewater Key RV Ownership Park Property Owner's Association, Inc., requests that this

proceeding be suspended for ninety (90) days from the filing of this Motion, to allow the parties to continue their settlement and discovery efforts.

The new proposed trial dates are as follows:

Discovery Closes:	3/20/2014
Plaintiff's Pretrial Disclosures:	5/3/2014
30-day testimony period for plaintiff's testimony to close:	6/20/2014
Defendant/Counterclaim Plaintiff's Pretrial Disclosures:	7/4/2014
30-day testimony period for defendant and plaintiff in the counterclaim to close:	8/19/2014
Counterclaim Defendant's and Plaintiff's Rebuttal Disclosures Due:	9/3/2014
30-day testimony period for defendant in the counterclaim and rebuttal testimony for plaintiff to close:	10/18/2014
Counterclaim Plaintiff's Rebuttal Disclosures Due:	11/2/2014
15-day rebuttal period for plaintiff in the counterclaim to close:	12/1/2014
Brief for plaintiff due:	1/30/2015
Brief for defendant and plaintiff in the counterclaim due:	2/30/2015
Brief for defendant in the counterclaim and reply brief, if any, for plaintiff due:	3/30/2015
Reply brief, if any, for plaintiff in the counterclaim due:	4/14/2015

Dated: December 10, 2013

Respectfully submitted,

BECKER & POLIAKOFF, P.A.



Kevin Markow, Esq.
Michael N. De Biase, Esq.
Attorneys for Opposer/Respondent
Emerald Lake Corporate Park
3111 Stirling Road
Fort Lauderdale, FL 33312-6525
Telephone: (954) 987-7550
Facsimile: (954) 985-4176
Primary: Kmarkow@becker-poliakoff.com
Secondary: MDeBiase@becker-poliakoff.com
AZiade@becker-poliakoff.com

CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2013, a true and correct copy of the foregoing Opposer's Responses to Applicant's Requests for Admissions was served by email and First Class mail to the address listed below.

Arlen Olsen
Schmeiser, Olsen & Watts, LLP
22 Century Hill Drive, Suite 302
Latham, NY 12110
aolsen@iplawusa.com



Michael De Biase, Esq.

Tel: 954.985.4145 | Fax: 954.985.4176 | [E-Mail](#)

Park Place | 311 Park Place Boulevard, Suite 250 | Clearwater, FL 33759

Tel: 727.712.4000 | Fax: 727.796.1484

[Website](#)

<image002.png>

<image003.png> <image004.png> <image005.png> <image006.png> <image007.png>

Please note our new address listed above. Our PO Box, phone, fax and email address all remain the same.

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EXHIBIT B

Autondria Minor

From: dpomonis@iplawusa.com
Sent: Tuesday, December 10, 2013 3:04 PM
To: De Biase, Michael
Cc: Autondria Minor; Markow, Kevin; Arlen Olsen; Dianne Pomonis
Subject: RE: BLUE.50057

Dear Mr. DeBiase:

Our client consented only to a reasonable extension to the discovery period. Please note we do not agree to a complete suspension to the proceedings.

We are agreeable to the proposed dates for the extension of time but not a suspension of the proceedings.

Kindly revise accordingly for a motion to extend discovery rather than a motion to suspend.

We are experiencing technical difficulties with our email system. Please contact me by phone at 518 220 1850 if you need to discuss.

Kind regards,
Autondria Minor

See attached, let me know if you have any comments. I spoke with the
> Interlocutory Attorney and after this is filed, I will call up to make
> sure that the paralegal attends to it today. She said that 90 days
> seems reasonable.

>

> From: Autondria Minor [mailto:aminor@iplawusa.com]
> Sent: Monday, December 09, 2013 10:30 AM
> To: De Biase, Michael
> Cc: Markow, Kevin; Arlen Olsen; Dianne Pomonis
> Subject: RE: BLUE.50057

>

> Dear Michael:

>

> You may handle it.

>

> Sincerely,

>

> Autondria S. Minor

> Autondria S. Minor

> Schmeiser, Olsen & Watts

> 22 Century Hill Drive, Suite 302

> Latham, NY 12110

> Telephone: (518) 220-1850 (Ext. 317)

> Facsimile: (518) 220-1857

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>
> _____
> From: De Biase, Michael
> [mailto:MDeBiase@bplegal.com]<mailto:[mailto:MDeBiase@bplegal.com]>
> Sent: Monday, December 09, 2013 10:07 AM
> To: Autondria Minor; Markow, Kevin
> Cc: Arlen Olsen; Dianne Pomonis
> Subject: RE: BLUE.50057

>
> Would you like us to file the agreed request, or will your office
> handle it?

>
>
>
>
> Michael N. De Biase
> Attorney at Law

>
> Emerald Lake Corporate Park | 3111 Stirling Road | Fort Lauderdale, FL
> 33312-6525
> Tel: 954.985.4145 | Fax: 954.985.4176 |
> E-Mail<mailto:MDeBiase@bplegal.com>

>
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> 33759
> Tel: 727.712.4000 | Fax: 727.796.1484
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> CARE@bplegal.com<<mailto:CARE@bplegal.com>>.
> From: Autondria Minor
> [<mailto:aminor@iplawusa.com>]<[mailto:\[mailto:aminor@iplawusa.com\]](mailto:[mailto:aminor@iplawusa.com])>
> Sent: Monday, December 09, 2013 8:47 AM
> To: Markow, Kevin; De Biase, Michael
> Cc: Arlen Olsen; Dianne Pomonis
> Subject: BLUE.50057
>
> Dear Kevin and Michael:
>
> Applicant consents to your request for a 90 days extension of the
> discovery period.
>
> Sincerely,
>
> Autondria S. Minor
> Autondria S. Minor
> Schmeiser, Olsen & Watts
> 22 Century Hill Drive, Suite 302
> Latham, NY 12110
> Telephone: (518) 220-1850 (Ext. 317)
> Facsimile: (518) 220-1857
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>

EXHIBIT C

Autondria Minor

From: De Biase, Michael <MDeBiase@bplegal.com>
Sent: Tuesday, March 04, 2014 11:29 AM
To: Autondria Minor
Cc: Arlen Olsen; Dianne Pomonis; Markow, Kevin
Subject: RE: Bluewater

Toni,

I appreciate the courtesy. Kevin is pretty much out of pocket for the rest of March due to vacation and being in trial. Additionally, from what I recall, he will be out of pocket April 14 -22 due to Passover. With this in mind, along with the pending settlement negotiations, it seems most productive to suspend the proceedings.

Let us know if your client is amenable to a 90 day suspension.

Thank you.

From: Autondria Minor [mailto:aminor@iplawusa.com]
Sent: Tuesday, March 04, 2014 11:12 AM
To: De Biase, Michael
Cc: Arlen Olsen; Dianne Pomonis
Subject: RE: Bluewater

Dear Mr. DeBiase:

Based on the decision of the TTAB today, the close of discovery deadline is March 20, 2014. Therefore, your weddings from April 17 –May 9, 2014 will have no effect on the close of discovery. The date of May 9, 2014 for Plaintiff's pre-trial disclosures may be in conflict since you do not intend to return until May 9, 2014. We are aware that Kevin is also working on this case. Perhaps, Kevin can meet the deadline of May 4, 2014 for Plaintiff's pre-trial disclosures. If not, as a professional courtesy, the deadline of May 9, 2014 may have to be extended. We will follow up with you shortly.

Sincerely,

Autondria S. Minor, Partner



22 Century Hill Drive • Suite 302 • Latham, NY 12110
O: (518) 220-1850 • F: (518) 220-1857 • E: aminor@iplawusa.com
Assistant: Dianne Pomonis • O: (518) 220-1850 • E: dpomonis@iplawusa.com
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From: De Biase, Michael [<mailto:MDeBiase@bplegal.com>]
Sent: Tuesday, March 04, 2014 10:25 AM
To: Autondria Minor; Arlen Olsen
Cc: Dianne Pomonis; Markow, Kevin
Subject: Bluewater

Per our conversation earlier this morning, I have a message in to our client re: your counteroffer, and I expect to hear back from her shortly. In the meantime, let me know if your client is amenable to suspending the proceedings another few months. As discussed, I will be out of pocket from April 17 – May 9 due to weddings, including my own, and my honeymoon.

Thank you.

Michael N. De Biase

Attorney at Law

1 East Broward Blvd., Suite 1800 | Fort Lauderdale, FL 33301
Tel: 954.985.4145 | Fax: 954.985.4176 | [E-Mail](#)

Park Place | 311 Park Place Boulevard, Suite 250 | Clearwater, FL 33759
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EXHIBIT D (REDACTED)

Autondria Minor

From: De Biase, Michael <MDeBiase@bplegal.com>
Sent: Wednesday, June 04, 2014 9:21 PM
To: Markow, Kevin; Autondria Minor
Cc: Arlen Olsen; Dianne Pomonis
Subject: RE: Clark v. Bluewater Key; BLUE.50557
Attachments: Bluewater - Motion to Extend Time to Respond to MSJ.pdf

Toni,

Per our brief discussion earlier today, we filed the attached Motion for Extension of Time to Respond to the Motion for Summary Judgment. Please let us know if your client is willing to agree or extension of time, nevertheless.

Regards,

From: De Biase, Michael
Sent: Tuesday, June 03, 2014 1:45 PM
To: Markow, Kevin; Autondria Minor
Cc: Arlen Olsen; Dianne Pomonis
Subject: RE: Clark v. Bluewater Key; BLUE.50557

Toni,

In the alternative, please confirm the additional extension of time to respond to the MSJ.

Regards,

From: Markow, Kevin
Sent: Monday, June 02, 2014 11:40 AM
To: De Biase, Michael; Autondria Minor
Cc: Arlen Olsen; Dianne Pomonis
Subject: RE: Clark v. Bluewater Key; BLUE.50557

Additional week...?
days to respond to the MSJ. thx

, but in an abundance of caution, pls consent to 20

Kevin Markow
Board Certified Business Litigation Attorney
Shareholder
Fort Lauderdale
Ext. 15174 (954.985.4174)

From: De Biase, Michael
Sent: Monday, June 02, 2014 11:33 AM
To: Autondria Minor; Markow, Kevin
Cc: Arlen Olsen; Dianne Pomonis
Subject: RE: Clark v. Bluewater Key; BLUE.50557

, we would like to request additional time to respond to the Motion for Summary Judgment. Kevin and I have our mandatory Firm retreat starting this Friday, and would appreciate at least an additional week to respond.

Thank you.

Michael N. De Biase
Attorney at Law
Fort Lauderdale
Ext. 15145 (954.985.4145)

From: Autondria Minor [<mailto:aminor@iplawusa.com>]
Sent: Monday, May 19, 2014 2:08 PM
To: De Biase, Michael; Markow, Kevin
Cc: Arlen Olsen; Dianne Pomonis
Subject: FW: Clark v. Bluewater Key; BLUE.50557

Dear Mr. DeBiase and Mr. Markow:

We filed a summary judgment motion on April 29, 2014, including a Declaration of James Mazurek. On May 7, 2014, we filed attachments regarding the summary judgment motion as entry #20. Therefore, we consent to an extension of time of eight days (until June 6, 2014) to respond to the summary judgment motion. We intend to have a counterproposal to the settlement offer by Wednesday of this week.

Should you have any questions or concerns, please do not hesitate to contact us.

Sincerely,

Autondria S. Minor, Partner



22 Century Hill Drive • Suite 302 • Latham, NY 12110
O: (518) 220-1850 • F: (518) 220-1857 • E: aminor@iplawusa.com
Assistant: Dianne Pomonis • O: (518) 220-1850 • E: dpomonis@iplawusa.com
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From: De Biase, Michael [<mailto:MDeBiase@bplegal.com>]
Sent: Tuesday, May 13, 2014 10:24 PM
To: Autondria Minor
Cc: De Biase, Michael; Arlen Olsen; Dianne Pomonis
Subject: Re: Clark v. Bluewater Key

Thank you.

On May 13, 2014, at 8:16 PM, "Autondria Minor" <aminor@iplawusa.com> wrote:

Dear Mr. DeBiase:

I got your email and will follow up with the client in the morning.

Sincerely,

Autondria S. Minor, Partner

<image001.jpg>

22 Century Hill Drive • Suite 302 • Latham, NY 12110

O: (518) 220-1850 • F: (518) 220-1857 • E: aminor@iplawusa.com

Assistant: Dianne Pomonis • O: (518) 220-1850 • E: dpomonis@iplawusa.com

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From: De Biase, Michael [<mailto:MDeBiase@bplegal.com>]

Sent: Tuesday, May 13, 2014 3:43 PM

To: Autondria Minor

Cc: Dianne Pomonis; Markow, Kevin

Subject: Clark v. Bluewater Key

Toni,

Today is my first day back in the office after my honeymoon, and as you can imagine, I'm absolutely buried and overwhelmed. I saw that a Motion for Summary Judgment was filed in this matter during my absence, although I have not yet had a chance to review it. Further, Kevin has been preparing for trial and mediation, and in mediation over the past week and a half.

Additionally, Kevin sent you correspondence concerning new proposed settlement terms.

Considering this, and the fact that the TTAB has suspended the proceedings while the MSJ is pending, we are asking for a 30 day extension to respond to the MSJ. With your consent, I will file the Stipulation for the extension.

In the meantime, have you had a chance to discuss our latest proposal with your client?

Regards,

Michael N. De Biase

Attorney at Law

1 East Broward Blvd., Suite 1800 | Fort Lauderdale, FL 33301